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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/663,963 09/19/00 ANDERSON

K M 6560 OS/OA

023657 HM22/0717
COGNIS CORPORATION
2500 RENAISSANCE BLVD., SUITE 200
GULPH MILLS PA 19406

EXAMINER

SRIVASTAVA, K

ART UNIT

PAPER NUMBER

1651

DATE MAILED:

07/17/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/663,963

Applicant(s)

ANDERSON ET AL.

Examiner

Dr. Kailash C. Srivastava

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 4,5,8,9 and 13-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6,7 and 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. Applicants' Response to Notice of Non-Compliant Amendment (37 CFR 1.21) and Supplemental Response to Restriction Requirement filed 6/27/2001 (Paper Number 11) is acknowledged and entered.
2. Applicants' Response to Restriction Requirement filed 05/08/2001 (Paper Number 8) is acknowledged and entered.

Restriction/Election

3. Applicant's election with traverse of Group I, claims 1-12, filed 05/08/ 2001 (Paper Number 8) and on election of species to "ammonium sulfate as the inorganic source of nitrogen and calcium as at least one metal" according to Supplemental Amendment filed 6/27/2001 (Paper Number 11) is acknowledged.

The traversal is on the ground (s) that "with respect to inventions of Groups I and II all of the elements of Claim 13 (Group II) find antecedent basis in Claim 1 (Group I). The traversal is also on the ground that since inventions of Groups I, II and III are classified in the same Class 435, the search of all the groups, I-III would not place an additional burden on the examiner. This is not found persuasive because:

- as stated in Office Action dated 04/18/2001, the invention of Groups I-III are classified in different subclass of Classes of Class 435;
- although, inventions in groups I-III are classified under Class 435, to conduct a literature search for each of the ingredients encompassing just the claim 1(d) alone would require searching for a total number of combinations that will be a factorial of at least 15 metals combined with each one of the other ingredients (taking only one example from each of the ingredients listed in Claims 2-12 =23) up to ingredient number 1 (i.e. 23×22 , 23×21 , 23×20 , 23×19 ----- 23×1). Thus, search for claims encompassing invention in Group I alone will exert an enormous search burden on the Examiner;

These differences among the inventions would clearly necessitate significant searching.

The restriction requirement is, therefore, still deemed proper and is made FINAL.

4. Note specifically that for purposes of the initial restriction requirement, as pointed out above, it may be *prima facie* shown if the examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search as defined in MPEP ' 808.02. That *prima facie* showing may be rebutted by appropriate showings or evidence by the applicant. Although applicant states that search and examination of all claims does not place an undue burden on the examiner, applicant has provided no showing or evidence in support of that argument as required by MPEP ' 808.02.

5. Claims 4-5, 8-9 and 13-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected claims, there being no allowable generic or linking claim.

6. Claims 1-3, 6-7 and 10-12 are examined on the merits.

Claim Rejections - 35 U.S.C. § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3, 6-7 and 10-12 are rejected under 35 U.S.C. § 102(b) as anticipated by Shirai et al (U.S. patent 5,618,708).

Claims recite a culture medium comprising a carbon and energy source (e.g., glucose), a source of inorganic nitrogen (e.g., ammonium sulfate), potassium phosphate, calcium an antifoam agent, a chelating agent and a trace metal.

Shirai et al., disclose a culture medium comprising citric acid, glucose, ammonium sulfate, vitamin, potassium phosphate, calcium chloride, sodium chloride, copper, iron, zinc and other trace elements and an antifoam (Column 5, Lines 65-68 and Column 6, Lines 1-32).

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This medium discloses an organic carbon/energy source, an inorganic nitrogen source, a metal salt, potassium phosphate, a chelant (citric acid) and a vitamin (biotin, See, Column 7, Table 2).

Therefore, the reference anticipates the cited claims.

9. No Claims are allowed.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kailash C. Srivastava whose telephone number is (703) 605-1196. The examiner can normally be reached on Monday-Thursday and every other Friday from 7:45 A.M. to 5:00 P.M. (Eastern Standard, or Daylight Savings time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn, can be reached on (703) 308-4743 Monday through Thursday. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3014.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Kailash C. Srivastava, Ph.D.
Patent Examiner
Art Unit 1651
(703) 605-1196

KCS
July 16, 2001



FRANCISCO PRATS
PRIMARY EXAMINER